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TS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/369,391 08/06/99 ABELOW

D 03058/004002

TM02/0402

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EXAMINER

DIXON, T

ART UNIT

PAPER NUMBER

2161

DATE MAILED:

04/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/369,391

Applicant(s)

ABELOW, DANIEL H.

Examiner

Thomas A. Dixon

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 08/934,457.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Request for Continued Examination

1. The request for a continued Examination in application 09/369,391 is acknowledged.

Specification

2. The new abstract of the disclosure is objected to because:

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(1). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

3. The new title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Terminal Disclaimer

4. The terminal disclaimer has not been entered because it does not comply with 37 CFR 1.321(b)(3) because:

4a. The person who has signed the disclaimer has not stated the extent of his/her interest, or the business entity's interest, in the application/patent. See 37 CFR 1.321(b)(3).

4b. The assignee has not established its ownership interest in the application, in order to support the terminal disclaimer. There is no submission in the record establishing the ownership interest by either (a) providing documentary evidence of a chain of title from the original inventor(s) to the assignee, or (b) specifying (by reel and frame number) where such documentary evidence is recorded in the Office (37 CFR 3.73(b)).

Response to Arguments

5. Applicant is requested to point out support for the amendments to the claims.
6. Applicant's amendment to claim 48 to remove the phrase "as perhaps" and add a semi-colon, as requested, also removed certain limitations necessitated the new 112 rejection.
7. Applicant's amendment to claim 67 to remove the term "large numbers" is acceptable, the 112 rejection of claim 67 is withdrawn.
8. The rejection under 102(b) of Kurland et al ('232) was unsupported, and accidentally entered in the last action, and is withdrawn.
9. Applicant's arguments regarding the 103 (a) rejection of claims 67 and 68 have been considered, and are not persuasive. See brief note below and rejection below.

Kurland discloses rapid collection and dissemination of survey information between panelist stations, a central computer and back to the panelist stations based upon certain demographics of the panelists, see Column 5, line 20 – Column 6, line 41.

Frost teaches value information in surveys, such as emotional reasons, trust, status, collected and evaluated electronically, see column 3, line 34 – column 4, line 50.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 48-78 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-48 of U.S. Patent No.

5,999,908. Although the conflicting claims are not identical, they are not patentably distinct from each other because a system for storing a repository of value information, determine based upon triggers indicated by a customer set preferences when value information would be useful, in response to the determining, distribute the value information to the user would be included as necessary to perform the invention.

Claim Objections

11. Claim 48 is objected to because of the following informalities:

Claim 48 recites the limitation "a repository" in line 10. The claim was originally correctly stated as "the repository" before an incorrect antecedent basis rejection was made, the repository of line 10 appears to be based on the repository of line 3.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claim 67 is rejected under 35 U.S.C. 101 because the claimed invention is inoperative and therefore lacks utility. Specifically, claim 67 is directed to a medium upon which a database is stored, coupled to a communication network, to enable users to interchange information, but the claim never actually exchanges, transforms or displays any data, it therefore lacks utility.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 48-66,73-78 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are:

“the repository comprises a user desires database or user-set preferences” and
“triggers based on user desires databases or user-set preferences” (as indicated by figures 13 or 23).

14. Claims 48-66,73-78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 48.

Specifically, the use of the term “client” is confusing, at times it seems to refer to the device/software and at other times to refer to the user of the device (it seems more correct to refer to the client as “client, which may be a device or software” as in claim 72) because the client appears to have some human need or quality. For example, in claim 48, lines 2, 7, 13 and 15, refer to the client, but line 9 refers to a user of the device and it is unclear how at line 13 (and also in claim 58) information would be useful to a client, rather than a user. Similar examples exist in claims 54, 55, 56, 58, 61, 62, 65, 77 and 78. Further the term “useful” is a subjective term and therefore indefinite.

As per Claim 61, 65.

Similarly, to claim 48, it is unclear how a “client” “uses” the products, services, software or information, it seems that the user might use the products, services, software or information and the client may detect and report or store use by a user.

As per Claim 62.

Similarly, to claim 48, it is unclear how a “client” “assesses the value” of the products, services, software or information, it seems that the user might be prompted by the client to assess the products, services, software or information.

As per Claim 75.

It is unclear what the grouping consists of, a colon following the word "of" and the listing, on separate lines, of use of, premature termination of, exception resulting from use of or user-initiated help request for the products, services, software or information might be more clear.

15. Claim 72 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, line 5, the phrase "client device or software" has been cut to include simply "the client device", which makes the scope of the claim indefinite. Further, it is unclear how the user is presented with the additional value information of line 7, as stated it could be a print advertisement not associated with the device or software, it is therefore indefinite.

16. Claims 73,74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 73 and 74 recites the limitation "customer desires" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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17. Claims 48, 50-52, 54-59, 61-69, 73, 74, 77, 78 are rejected under 35

U.S.C. 103(a) as being unpatentable over Kurland et al (4,603,232) further in view of Frost (5,041,972).

As per Claim 48.

Kurland et al ('232) discloses a server storing information generated by independent users, see Column 5, line 20 – Column 6, line 41 software configured to receive information electronically from clients, see Column 5, line 20 – Column 6, line 41, store the information, see Column 5, line 20 – Column 6, line 41 determine based on triggers when information would be useful for one of the clients, see Column 5, line 20 – Column 6, line 41, and in response to the determining, distribute the information, electronically to one of the clients, see Column 5, line 20 – Column 6, line 41

Kurland et al ('232) does not disclose the information is about the value of products, services, software or information.

Frost (5,041,972) teaches surveys of value information and users generating new value information interactively while using the stored value information, see Column 4, lines 34 – 50 and see column 3, line 34 – column 4, line 50, for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972), for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

As per Claim 50.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) further discloses access through a network, see column 3, lines 21-65.

As per Claim 51.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) further discloses the server is electronically accessible to users, see column 7, lines 38-60.

As per Claim 52.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) does not specifically disclose the information is value judgements.

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Frost (5,041,972) teaches surveys of value information and users generating new value information interactively while using the stored value information, see Column 4, lines 34 – 50 and see column 3, line 34 – column 4, line 50., for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972), for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

As per Claim 54.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48. Kurland et al ('232) further discloses software that enables a user to invoke the server directly for instructions, see column 7, lines 61-68.

As per Claim 55.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 54. Kurland et al ('232) further discloses the pointer is automatically displayed, see column 3, lines 62-65.

As per Claim 56.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48. Kurland et al ('232) further discloses the server prompts the client to supply additional data to the server, see column 5, line 66- column 6, line 41.

As per Claim 57.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48. Kurland et al ('232) further discloses the client periodically supplies additional information to the server, see column 3, lines 62-65.

As per Claim 58.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48. Kurland et al ('232) further discloses the server initiates deliver to the clients of new information of interest to the clients, see column 7, lines 49-60.

As per Claim 59

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48. Kurland et al ('232) further discloses the information is continually updated, see column 3, lines 62-65.

As per Claim 61

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

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Kurland et al ('232) further discloses detecting uses by the client of the software or information, see column 3, lines 63-65.

As per Claim 62.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 61.

Kurland et al ('232) does not specifically disclose prompting the users for an assessment of the value of the products, services, software or information used.

Frost (5,041,972) teaches surveys of value information and users generating new value information interactively while using the stored value information, see Column 4, lines 34 – 50 and see column 3, line 34 – column 4, line 50., for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972), for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

As per Claim 63.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 62.

Kurland et al ('232) further discloses the information is returned to the server from the client, see column 3, lines 63-65.

As per Claim 64.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 62.

Kurland et al ('232) further discloses the information is stored at the client and periodically returned to the server from the client, see 5, line 66 – column 6, line 3, and column 3, lines 56-65.

As per Claim 65.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) further discloses the server collects information when a client uses the products, services or information on-line, see column 3, lines 59-65.

As per Claim 66.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) further discloses presenting information as text, see column 6, lines 16-41.

As per Claim 67.

Kurland et al ('232) discloses a digital medium storing information generated by independent users, the medium being coupled to an electronic communication network, and interchange of new information from the users to the digital medium and of stored information from the medium to the users, see Column 5, line 20 – Column 6, line 41.

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Kurland et al ('232) does not disclose the survey is about the value of products, services, software or information.

Frost (5,041,972) teaches surveys of value information and users generating new value information interactively while using the stored value information, see Column 4, lines 34 – 50 and see column 3, line 34 – column 4, line 50., for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972), for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

As per Claim 68.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 67.

Kurland et al ('232) does not disclose the users generate the new value information interactively while using the stored value information.

Frost (5,041,972) teaches users generating new value information interactively while using the stored value information, see Column 4, lines 34 – 50, for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to allow the users to generate new value information interactively while using the stored value information as taught by Frost ('972), for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

As per Claim 69.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 67.

Kurland et al ('232) discloses digital filters configured to identify patterns of sources of value information and fetch the identified information over the network, see Column 5, line 20 – Column 6, line 41.

As per Claim 73.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) further discloses the repository comprises customer desires or user-set preferences, see column 7, lines 57-60.

As per Claim 74.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) further discloses triggers are indicated by customer desires or user-set preferences, see column 7, lines 57-60.

As per Claim 77.

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Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.
Kurland et al ('232) further discloses information distributed to one of the clients comprises information received from another client, see column 7, lines 38-60.

As per Claim 78.
Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.
Kurland et al ('232) further discloses information distributed to one of the clients comprises instructions for use of the products, services, software, or information, see column 7, lines 61-68.

18. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurland et al (4,603,232) further in view of Frost (5,041,972) further in view of America Online.

As per Claim 49.
Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.
Kurland et al ('232) discloses a network, but not the Internet.
America Online teaches access to Internet addresses and instructions to users, see abstract, for the benefit of offering access to a popular network service.
Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the network of Kurland et al ('232) to expand service to the Internet, as taught by AOL, for the benefit of offering access to a popular network service.

19. Claims 53, 60, 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurland et al (4,603,232) further in view of Frost (5,041,972) further in view of LaPlante "Who ya gonna call".

As per Claim 53.
Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.
Kurland et al ('232) does not disclose the information comprises navigational pointers that point to information that a user has determined to be useful.
LaPlante teaches an online bulletin board, see page 63, lines 25-29 and page 64, lines 23-29, which teach addresses and comments of products and services as available through e-mail and electronic bulletin boards, for the benefit of allowing customers to contact providers for service at a low cost.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to include email and electronic bulletin boards as taught by LaPlante for the benefit of allowing customers to contact providers for low cost customer service.

As per Claim 60.

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Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 48.

Kurland et al ('232) does not disclose the server provides addresses of, and at least one of rankings, comments, and ratings of the products, services, software or information.

LaPlante teaches an online bulletin board, see page 63, lines 25-29 and page 64, lines 23-29, which teach addresses and comments of products and services as available through e-mail and electronic bulletin boards, for the benefit of allowing customers to contact providers for service at a low cost.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to include email and electronic bulletin boards as taught by LaPlante for the benefit of allowing customers to contact providers for low cost customer service.

As per Claim 75.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 61.

Kurland et al ('232) discloses triggers based on demographics, but does not specifically disclose the trigger includes an event selected from the group consisting of use of the product, service or software or software feature; premature termination of a product, service or software feature; an exception resulting from use of a product, service, or software feature; a user-initiated help request during use of a product, service or software.

LaPlante teaches an online bulletin board, see page 63, lines 25-29 and page 64, lines 23-29, to a user can request help during the use of a software (specifically UNIX) as available through e-mail and electronic bulletin boards, for the benefit of allowing customers to contact providers for service at a low cost.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to include email and electronic bulletin boards as taught by LaPlante for the benefit of allowing customers to contact providers for low cost customer service.

20. Claims 70, 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kurland et al (4,603,232) further in view of Frost (5,041,972) further in view of Orr.

As per Claim 70.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 69.

Kurland et al ('232) discloses the filters control the information sent to users, see column 6, lines 37-41.

Kurland et al ('232) does not specifically disclose the services comprise video or music, the value information concerns the content of the video or music.

Orr teaches providing software graphic and sound files in addition to comments on their value, see abstract, lines 1-7 for the benefit of providing a way to establish a reputation, through testimonials, without spending enormous amounts on advertising.

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Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to include the music content and associated testimonials taught by Orr for the benefit of enhancing marketing efforts through user testimonials.

As per Claim 71.

Kurland et al ('232) in view of Frost ('972) in view of Orr discloses all the limitations of Claim 70.

Kurland et al ('232) discloses the filters include users input, see column 6, lines 37-41 and column 7, lines 49-60.

Kurland et al ('232) does not specifically disclose the user preferences are made available to the vendors of products, services or information.

Orr teaches providing a method for user's to advertise their preferences and give information back to the providers, see page 2, lines 9-15 for the benefit of providing a way to advertise user's needs and establish a reputation, through testimonials, without spending enormous amounts on advertising.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to include a method for advertising needs and later include associated testimonials taught by Orr for the benefit of enhancing marketing efforts through user testimonials.

21. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna et al (4,816,904) further in view of Frost (5,041,972).

As per Claim 72.

McKenna et al ('904) discloses a user records information on a client device or software, see column 3 lines 11-20,

the client device or software sends the information to a server for storage, see column 3, lines 21-31, and

the user is presented with the information in the course of working with the commodity, see column 3, lines 35-60.

McKenna et al ('904) does not disclose the information is value information about a commodity or that additional information, recorded by others is received.

Frost (5,041,972) teaches users generating value information and that value information entered by others is received, see Column 3, lines 34-45, and column 4, lines 34 – 50, for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of McKenna et al ('904) to allow the users to generate value information, analyze the value information, and distribute the new value information as taught, by Frost ('972), for the benefit of selecting a set of attributes for market research which achieves the highest level of discrimination for each consumer interviewed.

22. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurland et al (4,603,232) further in view of Frost (5,041,972) further in view of Eisen et al (4,964,077).

As per Claim 76.

Kurland et al ('232) in view of Frost ('972) discloses all the limitations of Claim 61.

Kurland et al ('232) does not specifically disclose the information obtained from the client is obtained from passive evaluation.

Eisen et al ('077) teaches passive tracking of use of a software features, see column 2, lines 12-20 and 33-38 for the benefit of automatically adjusting help information displayed in an online interactive system.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify the invention of Kurland et al ('232) to passively track the use of software functions as taught by Eisen et al ('077) for the benefit of automatically adjusting help information displayed in an online interactive system.

Prior Art made of Record

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Orr "Join the information economy" is the closest non-patent literature, and teaches online access to a variety of products, including graphic and sound files research and consulting services in addition to comments on their value.

Lerwien, "PC MagNet: a guide to ZiffNet. (on-line service)" teaches online interaction between users and the developers of computer utilities and magazine personnel to exchange value information.

O'Leary "CompuServe at the crossroads" teaches access to consumer reports online and member help forums and online assistance.

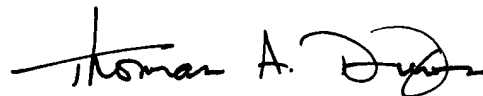
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Friday 7 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.

A handwritten signature in black ink, appearing to read "Thomas A. Dixon", with a stylized flourish at the end.

Thomas A. Dixon
Examiner
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March 30, 2001